



Department of Pesticide Regulation



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**Madera County
Pesticide Regulatory Program
2006/2007 Performance Evaluation Report**

**California Environmental Protection Agency
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Performance Evaluation of the Madera County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides a performance evaluation of Madera County Agricultural Commissioner's (CAC's) Pesticide Use Enforcement (PUE) program for the fiscal year 2006/2007. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to the Department of Pesticide Regulation (DPR) standard as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the fiscal year, the core areas of Madera County's pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2006/2007.

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and work plan goals.

Summary Statement:

The Madera County Agricultural Commissioner's pesticide use program is currently effective. Madera County lost two additional biologists during the 2006/2007 year, and continued to be understaffed throughout the fiscal year. As of July 31, 2007 the PUE deputy position has been filled, and the new deputy will assume her duties in August 2007. The county also hired three new biologists for the upcoming fiscal year. One new staff member has ten years PUE experience, and a background in field fumigation inspections.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

1) Permit Issuance

All staff of the Madera County Agricultural Commissioner's office who issue restricted materials permits have received restricted materials permit training, and are knowledgeable

of pesticide laws and regulations. All Madera County pesticide use enforcement staff who review the restricted use permits possess pesticide regulation, and environmental monitoring licenses. The experience of the staff extends to eleven years in pesticide enforcement activities. All pesticide enforcement staff possess the training and knowledge to issue restricted materials permits. New staff prepares the restricted materials permits, and before the permits are issued, an experienced biologist will review them to assure they are correct and complete. Both biologists sign the permit.

The biologists interview each restricted materials permit applicant to determine if the applicant has met the requirements to hold a restricted materials permit, and is the operator of the property. If they are not the operator of the property, a letter of authorization is required to be in possession of the applicant prior to the issuance of the permit. If the applicant possesses a Private Applicator Certificate or a Qualified Applicator License, the numbers are verified and listed on the restricted materials permit.

Madera County uses the Restricted Materials Permit Program (RMPP) in conjunction with AgGIS to issue permits. Geographic Information System (GIS) maps, and grower's maps are used to help evaluate the surrounding environment, identify ground water protection areas and identify sensitive sites, such as, schools, residential areas, waterways, labor camps, and parks. Restricted materials permits are amended in person using DPR's supplemental form, or by fax if the authorized representative signs and returns the form to the Madera County CAC. When the permit is amended, the change is made on a supplemental page and is attached to the original permit, as well as entered into the RMPP.

The Madera County CAC issues restricted materials permits for a one-year period. Approximately 515 restricted materials permits and 410 operator I.D.s were issued in 2007. Annual training on the policies and procedures used to issue permits, and training for properly identifying sensitive sites were given by the Department of Pesticide Regulation.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants
- Signed by the operator of the property or authorized persons
- Issued for a one-year time period
- Permit amendments follow approved procedures

2) Site Evaluation

Prior to approving the use of a restricted material on a permit, the Madera CAC checks to see if the pesticide is registered for use on that crop using DPR's pesticide label database. The CAC staff evaluates the permit, and determines if practical mitigation measures could be implemented or the use of feasible alternatives is required. The biologist issuing the restricted materials permit also reviews any permit condition that may apply to the

pesticides and conditions the permit accordingly. The GIS maps are used to identify sensitive sites.

The permits:

- Contained the necessary information
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses
- Identified mitigation measures and included conditions that addressed known hazards

The Madera CAC maintains strict permit conditions for the use of metam sodium, metam potassium, 1,3-dichloropropene and chloropicrin. The permit conditions vary for the use of metam sodium and metam potassium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods are different for the various application methods and once a certain method is denied, a second method may be allowed in making the application. The permit conditions for

1,3-dichloropropene conditions the permit for buffer zones around sensitive sites, re-entry intervals, and requires additional information on the notice of intent (NOI). Chloropicrin permit conditions apply to all applications of chloropicrin alone, or in combination with any fumigant other than methyl bromide when chloropicrin is not being used as a warning agent. An NOI is required to be submitted 72 hours prior to the proposed application, and additional information is required on the notice of intent. Post application monitoring, buffer zones, application distances from schools and occupied structures are established in the conditions. All fumigant applications near sensitive sites are inspected, assuring the buffer zones are both accurate and adequate. Pre-application site inspections are conducted for all fumigant applications around sensitive sites.

Phenoxy herbicide applications sites are also evaluated when a notice of intent is submitted, and denied if near sensitive crops. Cutoff dates have been implemented for several of the phenoxy herbicides that include 2,4-D, MCPA, and dicamba. This has prevented crop damage and losses due to offsite movement.

The county also maintains permit conditions for aluminum phosphide use. The conditions address accessibility, prior notice to the application, and supervision of the material.

Notices of intent (NOI) are received by fax, phone, online and walk-ins. All notices of intent are reviewed by pesticide enforcement staff who check each NOI against the permit in the computer. One biologist is scheduled to remain in the office each day to review NOIs and issue permits. Each biologist in the field has a cellular telephone, and is contacted to check sites in sensitive areas when NOIs are submitted. Sensitive sites include, but are not limited to; parks, residential areas, schools, hospitals, labor camps, sensitive crops, and organic sites. More than 2,550 notices of intent were reviewed and processed in 2006/2007.

Notices of intent listing defoliant to be applied near sensitive sites are evaluated and denied if the site is too close to residential areas. The application may be denied, conditioned, or be made using non-restricted pesticides. The biologists have the authority

to accept or deny a notice of intent. When a notice of intent is denied, the operator of the property, or the pest control business is notified.

The program reviewed all notices of intent in a timely manner and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring:

1) Inspections

Staff from the Madera County Agricultural Commissioner's office attended training sessions in 2006/2007 that included; interviewing techniques, hearing officer training, restricted materials permit training, and pesticide use monitoring inspections. Biologists conducting pesticide use inspections mark "No" on the inspection form for any noncompliance found during the inspection. The biologists review the compliance history for the firm/person inspected, and meet with the Senior Ag Standard Inspector, or commissioner to discuss if further action is required. The Senior Ag Standard Inspector or commissioner is responsible for preparing the violation notice, or case file and notice of proposed action.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements
- Include interviews of employers and employees
- Adequately document violations
- Include appropriate follow-up inspections and procedures

2) Investigations

Madera CAC conducted 18 illness investigations during the 2006/2007 fiscal year. New staff work under the supervision of an experienced biologist during the investigation of pesticide related incidences. All incidents or complaints associated to pesticides are investigated and written reports are made on each case. Investigations are thorough, complete and submitted in the approved format. The investigations adequately provide the information necessary to successfully prosecute violations. A complaint log is maintained and made available to the liaison for review.

C) Enforcement Response:

When non-compliances are found during inspections and investigations, Madera County Pesticide Enforcement staff issue violation notices, and the individual conducting the investigation enters the information into a database. The

Senior Ag Standard Inspector reviews the compliance history of each respondent, and utilizes the pesticide enforcement response regulations to determine if enforcement action is warranted. The biologists are required to conduct follow-up inspections, which include a headquarter employer/employee inspection when worker safety non-compliances are found. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by pesticide enforcement response regulations. When enforcement actions are not taken, a decision report is written listing the violations found, classification, and a compliance history for the respondent along with an explanation.

Madera County has issued approximately 17 agricultural civil penalties in fiscal year 2006/2007.

The CAC enforcement program was found to:

- Initiate the appropriate action when violations are identified
- Sufficiently support compliance, enforcement and public protection actions

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when implementing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

A) Outreach and Training

The Madera County Agricultural Commissioner's office provides pesticide safety training to workers including, growers, pesticide applicators, and Farm Labor Contractors each year. The courses include information on protection of persons, animals and property during the use of pesticides, worker safety, personal protective equipment required by the label and regulation, restricted materials permit requirements, how to read and understand pesticide label requirements, and updates on pesticide laws and regulations.